



ARIZONA HOUSE OF REPRESENTATIVES

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House: MAPS DP 13-0-2-0 3rd Read DPA 31-28-1-0

Senate: MAPS DPA 5-1-1-0 | 3rd Read 16-14-0-0

HB 2617: carrying of firearms; constables

Sponsor: Representative Bliss, LD 1

Senate Engrossed

Overview

Includes an on-duty or off-duty constable, who meets certain requirements, within the definition of a *peace officer* who may not be prohibited from carrying a firearm except in limited circumstances.

History

Current statute provides that a peace officer may not be prohibited from carrying a firearm except in specifically delineated circumstances. Peace officers who are employed as law enforcement officers in Arizona must be in compliance with Arizona Peace Officer Standards and Training Board (AZPOST) firearm requirements to qualify for this exemption from firearm prohibitions.

This same statute defines *peace officer* to have the same meaning prescribed in [A.R.S. § 1-215](#), which includes constables, among several other types law enforcement officers. However, in addition to incorporating [A.R.S. § 1-215](#)'s definition of *peace officer*, [A.R.S. § 38-1113](#) goes on to specify that, for purposes of that section, *peace officer* also includes:

- 1) Municipal, county and state prosecutors who annually pass a pistol qualifying examination approved by AZPOST;
- 2) A person employed as a law enforcement officer by a different state or an Indian tribe who is certified by an AZPOST-equivalent entity in that jurisdiction; or
- 3) A federally certified law enforcement officer.

A constable is an officer of the county justice courts within the precinct in which he serves. A constable has similar authority and responsibility to that of a county sheriff with regard to his respective superior court. However, statute specifies that a constable has the authority of a peace officer only in the performance of his official duties ([A.R.S. § 22-131](#)).

In July of 2016, the Arizona Attorney General (AG) issued an extensive opinion on the rights of constables in regards to firearms, including whether constables benefit from the protections against firearm prohibitions applicable to peace officers. After lengthy analysis, the AG concluded: *Because the official duties of a constable are limited to on-duty work, off-duty constables, even if certified by AZPOST, only have the right to carry a firearm where doing so is otherwise prohibited by law in situations when an obvious and immediate threat presents itself. An AZPOST certified, on-duty constable, however, has the right to carry a firearm in times and at places otherwise prohibited by law* ([Attorney General Op. 116-008](#)).

Provisions

1. Clarifies that the definition of *peace officer* for purposes of [A.R.S. § 38-1113](#) includes a constable or deputy constable, while on-duty or off-duty, who is not suspended from duty or charged with a felony offence, and who either:

<input type="checkbox"/> Prop 105 (45 votes)	<input type="checkbox"/> Prop 108 (40 votes)	<input type="checkbox"/> Emergency (40 votes)	<input type="checkbox"/> Fiscal Note
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- a) Is an AZPOST certified peace officer; or
 - b) Completed AZPOST-approved firearms training, maintains annual firearms proficiency, undergoes a psychological examination (unless waived by the county or the Arizona Counties Insurance Pool) and either:
 - i) Possesses a valid Arizona concealed weapons permit; or
 - ii) Completes a POST-approved background investigation. (Sec. 1)
2. Requires AZPOST to forward copies of all certificates of completion, permits and proficiency records to the Constable Ethics Standards and Training Board within 30 days after completion. (Sec. 1)
3. Asserts that this extension of firearm carrying rights to constables does not create a liability for a county unless the constable is performing his official duties, or he is compelled to act as a peace officer to protect life or property. (Sec. 1)

Senate Amendments

1. Narrows the liability to the county, specifying that the county is liable only when the constable is performing his official duties and not when the constable is compelled to act as a peace officer to protect life or property.